

STATE OF LOUISIANA

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NO. 2014-KA-0579

VERSUS

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COURT OF APPEAL

CORNELL B. CAVALIER

*

FOURTH CIRCUIT

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STATE OF LOUISIANA

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LOMBARD, J., CONCURS IN THE RESULT,

The defendant waived his Sixth Amendment right of confrontation by failing to timely request a subpoena for the analyst who performed the test on the rocks of cocaine. *See State v. Simmons*, 11-1280 (La. 1/20/12), 78 So.3d 743. Thus, appellate counsel's assignment of error on appeal is without merit. In addition, there is not merit to the defendant's *pro se* assignments of error. First, defense counsel failed to contemporaneously object to the dismissal of the witness and, on appeal, the defendant has not shown that the premature dismissal of the State's witness was prejudicial. Next, the police officer provided a reasonable, articulable suspicion for initially stopping the defendant as he exited the empty apartment in a HANO building and, therefore, the trial court did not abuse its discretion in denying defendant's motion to suppress. With regard to the *error patent*, the trial court's failure to rule on the defendant's timely filed post-verdict motions before imposing sentence was error and remand is appropriate. Accordingly, I respectfully concur.